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*NOT ADMITTED IN D.C.

GEORGE D. WEBSTER (1921-1998)
OF COUNSEL
J. COLEMAN BEAN
CHARLES E. CHAMBERLAIN

April 7, 1997

BY HAND DELIVERY

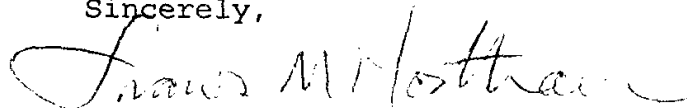
Dawn M. Odrowski, Esq.
Office of General Counsel
Federal Election Commission
Sixth Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3774

Dear Ms. Odrowski:

Enclosed are the responses and objections of The National Right to Work Committee to the interrogatories and requests for documents that were submitted to the Committee in connection with MUR 3774.

Sincerely,



Frank M. Northam

Enclosures
FMN/ctb

cc: Richard J. Clair, Esq.

APR 7 3 47 PM '97

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
APR 7 1997

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Unknown Respondent)
)
& Witness Subpoena)

MUR 3774

APR 7 3 47 PM '97

RESPONSE TO SUBPOENA

The National Right to Work Committee (NRTWC),¹ hereby responds to the Subpoena to Produce Documents/Order to Submit Written Answers served upon NRTWC in the above-referenced MUR, following the numbering order used in the Subpoena/Order.

INTRODUCTORY COMMENTS

The subject checks relate to activities from more than four years ago. NRTWC has experienced changes in personnel over those years, and documents may no longer exist, if they ever existed. Nonetheless, NRTWC, with the assistance of counsel and staff, has conducted a diligent search for documents and facts, and responds on the basis of information so gathered.

INTERROGATORIES

1.a. We cannot determine who "received" checks 1452 and 1455 from Coalitions for America. They were probably "received" by mail.

1.b. We cannot determine who deposited the checks.

1.c. The checks were contributions to NRTWC.

1.d. As best can be determined at this time, the officers, directors, employees or other persons connected with NRTWC in 1992 who had knowledge of the checks were Reed Larson, President, Karl Gallant, Vice President, and Maureen Fallon, who worked in the accounting department.

1.e. The checks were deposited in NRTWC's general operations checking account and used for general operating purposes.

2. No.

¹ NRTWC notes that it was misnamed in the Subpoena/Order as "National Right to Work Committee, Inc." NRTWC's correct legal name is "The National Right to Work Committee".

3. NRTWC objects to this interrogatory and refuses to answer it on the following grounds:

a. NRTWC is a citizens coalition which opposes compulsory unionism. Such advocacy with respect to public policy issues is a form of speech and association protected by the First Amendment to the Constitution of the United States. *See, Buckley v. Valeo*, 424 U.S. 1, 14-23 (1976). Interrogatory 3 threatens and chills the exercise of First Amendment rights by NRTWC and its supporters.

b. Interrogatory 3 is an unauthorized fishing expedition, seeking documents and information on NRTWC's activities, rather than the activities of others, such that a reasonable person would conclude that the Commission is exceeding and misusing its investigative powers in an attempt to secure NRTWC's admission to one or more violations of the federal election laws, or documents and information with which to prove a violation by NRTWC. However, the Commission is not authorized to investigate suspected violations by NRTWC unless a complaint is first filed against NRTWC pursuant to 2 U.S.C. § 437g. *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 387-88 (D.C. Cir. 1981), *cert. denied* 454 U.S. 897. (Mere "official curiosity" does not suffice as a basis for Commission investigations. The Commission needs a signed, sworn, notarized complaint to commence an investigation.) Nor has NRTWC been informed of any "reason to believe" vote pursuant to 2 U.S.C. § 437g(a)(2) by which the Commission might be able to commence an investigation of NRTWC.

c. The language of Interrogatory 3 is constitutionally vague and overbroad. For example, it requests information concerning activities "relating to" federal elections, including but not limited to communications or activities "containing the names(s) of any 1992 federal candidates." The phrase "relating to" is just as vague and overbroad as other phrases so declared by the U.S. Supreme Court. "Relative to," "for the purpose of influencing," and "in connection with" have all been given an "express advocacy" limiting construction by the Supreme Court to avoid constitutional vagueness and overbreadth. *Buckley v. Valeo*, 424 U.S. at 42-43 & 80; *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 249 (1986). Furthermore, the simple fact that a communication "contains the name of federal candidates" as used in interrogatory 3, is wholly insufficient to bring it within the Commission's jurisdiction. To come within the Commission's jurisdiction, not only must a communication "clearly identify" a federal candidate, but it must also "expressly advocate" the candidate's election or defeat. *Id.*

d. NRTWC and its supporters have a constitutional right to associate in private for the promotion of its cause. *Buckley*, 424 U.S. at 64-66. Interrogatory 3 threatens that First Amendment right without a compelling governmental interest. "[I]f the FEC lacks jurisdiction . . . , then no compelling interest for the subpoenaed information can possibly exist." *Machinists*, at 389.

Without waiving said objections, NRTWC answers that it did not engage in or finance any activities within the jurisdiction of the FEC in October-December 1992.

4. NRTWC is exempt from federal income tax under 26 U.S.C. § 501(c)(4).

PRODUCTION OF DOCUMENTS

1. All the documents responsive to request no. 1, which we have been able to find in a diligent search, are produced herewith.

2. None.

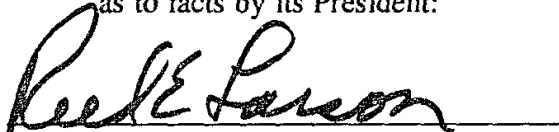
3. Request no. 3 is objected to on the same grounds as interrogatory 3 is objected to. Without waiving said objections, NRTWC answers that there are no documents within the jurisdiction of the FEC for the period October-December 1992.

4. The requested bank statements for the account into which the subject checks were deposited, i.e., the general operating account, are produced herewith. Since the funds were used for general operating purposes and were intermingled with other general operating funds, there is no way to trace them to a particular payee's account. BE ADVISED: NRTWC's supporters have a First Amendment right to associate in private with NRTWC. NRTWC does not hereby waive that privacy right or consent to the FEC's obtaining donor information from the bank, but NRTWC asserts that privacy right for the benefit of its supporters, hereby objecting to any attempt of the FEC to obtain such donor information.

5. NRTWC's IRS Form 990 for 1992 is produced herewith.

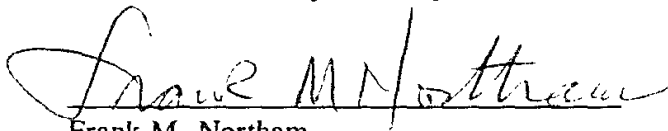
Respectfully submitted,

The National Right to Work Committee,
as to facts by its President:



Reed E. Larson, President

and as to objections by counsel:



Frank M. Northam

Webster, Chamberlain & Bean

1747 Pennsylvania Avenue, N.W., Suite 1000

Washington, D.C. 20006

(202) 785-9500

VERIFICATION

Commonwealth of Virginia)
) SS:
County of Fairfax)

The foregoing Response To Subpoena was subscribed and sworn to before me, a Notary Public in and for the Commonwealth of Virginia, by Reed E. Larson, President of The National Right to Work Committee, who is personally known to me, on this 4th day of April, 1997.

Virginia A. Smith
Notary Public Virginia A. Smith

My commission expires: December 31, 1999.

0571-06710700

CITY

ADDRESS

DATE

FOR CREDIT TO THE ACCOUNT OF

DOLLAR

CENTS

CURRENCY

COIN

LIST CHECKS SEPARATELY BY BANK NUMBER

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TOTAL ITEMS

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25,000.00 DEF

AMERICAN BANK SYSTEMS CO. (200) 400-4000

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1992

DOLLAR

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CURRENCY

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FOR CREDIT TO THE ACCOUNT OF

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Committee

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National Right to Work Committee

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AMERICAN SECURITY BANK, N.A.
Washington, D.C.

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Figure 1 consists of 12 sub-graphs, labeled (a) through (l), each plotting the percentage of total protein in the supernatant (Y-axis, 0 to 100) against time in minutes (X-axis, 0 to 120). The graphs show the elution profiles of different immunoglobulin classes and subclasses. (a) IgG shows a peak around 60 minutes. (b) IgM shows a peak around 40 minutes. (c) IgA shows a peak around 40 minutes. (d) IgD shows a peak around 40 minutes. (e) IgE shows a peak around 40 minutes. (f) IgG2a shows a peak around 40 minutes. (g) IgG2b shows a peak around 40 minutes. (h) IgG1 shows a peak around 40 minutes. (i) IgA1 shows a peak around 40 minutes. (j) IgA2 shows a peak around 40 minutes. (k) IgM1 shows a peak around 40 minutes. (l) IgM2 shows a peak around 40 minutes.

CHECKING ACCOUNT DEPOSIT

FOR CLEAR COPY, PRESS FIRMLY WITH BALL POINT PEN

PLEASE BE SURE THAT ALL ITEMS ARE PROPERLY USED.

ALL ITEMS RECEIVED SUBJECT TO TERMS AND CONDITIONS OF APPLICABLE LAWS, REGULATIONS AND DEPOSIT AGREEMENT

CITY

ADDRESS

TO THE
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OF

**FOR
CREDIT**

DATE Nov 13 1992

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CITY

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FOR

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TO THE

DATE

Nov 13 1992

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PREVIOUS TOTAL

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TOTAL ITEMS

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SOVRAN BANK

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AMERICAN BANK NOTE CO. CHICAGO

50677 60E 40 02

Committee

DATE 11-13

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COALITIONS FOR AMERICA

721 SECOND ST. N. E.
WASHINGTON, DC 20002

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PAY TO
THE ORDER OF

National Right to Work Committee

\$ 35,000.00

Thirty-five Thousand & 00/100

DOLLARS


Fund for
Government Investors, Inc.
A MONEY MARKET FUND
AMERICAN SECURITIES BANK, N.A.
MEMBER SIPC

⑆14426310000⑆ ⑆054000554⑆

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Tim Smith
Kelley A. Lawrence

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